SBCivil Writ Petition No.1502/2005

Shojiram Mali

Vs.

The Judge, Labour Court, Bhilwara & Ors.

Date of Order :: 12th October, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. R.S.Saluja, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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By this petition for writ a challenge is give to the award dated 1.11.2004 passed by learned Judge, Labour Court, Bhilwara holding therein that the workman failed to prove that the selection grade and other ancillary benefits were not given to him by the employer in accordance with law. The Labour Court also held that the workman who was initially appointed on work charged basis and the selection grades have already been given to him from the date he was declared semi permanent, therefore, no error is committed by the employer by giving selection grades to the workman concerned w.e.f. 1.1.1998.

In brief, facts of the case are that present the petitioner entered in the services of the Department of Irrigation being appointed as Chowkidar

w.e.f. 12.8.1968. He was conferred with semi permanent status w.e.f. 31.8.1970 and was promoted to the post of Munshi w.e.f. 1.2.1984. The petitioner was absorbed in Medical and Health Department as Lower Division Clerk being declared surplus in the Department of Irrigation on 26.9.1990. The absorption of the petitioner was made in the Department of Medical and Health Services in regular cadre and he joined services in the Department aforesaid on 8.10.2000. The respondents allowed selection grades to the petitioner on completion of 9 and 18 years of service in accordance with a notification of Government of Rajasthan dated 25.1.1992 under an order dated 27.1.1997 w.e.f. 1.2.1993. The petitioner completed 27 years of service on 31.8.1997 but the respondents allowed third selection grade to the petitioner w.e.f. 1.1.1998 in light of a circular dated 4.3.1998 that pertains to work charged employees.

The grievance of the petitioner as agitated by way of an industrial dispute was that on being taken in regular cadre of Government of Rajasthan w.e.f. 8.10.2000 he cannot be treated as a work charged employee and, therefore, the circular dated 4.3.1998 is having no application in his case, as such the selection grades are required to be given to him w.e.f. 25.1.1992 on completion of 9 and 18 years of service and w.e.f. 1.9.1997 on completion of 27 years of service. A reference of the dispute was made by

appropriate government to Labour Court, Bhilwara in terms as to whether the denial from grant of selection grades to the workmen from the date of their initial appointment is just and valid, if not then for what relief the workmen is entitled? The Labour Court by its award dated 1.11.2004 answered the reference without giving any relief to the workmen, hence this petition for writ is preferred.

A reply to the writ petition has been filed on behalf of the respondents accepting the position that the petitioner joined his duties in Medical and Health Department on 8.10.1990 as Lower Division Clerk and prior to that he was working in Department of Irrigation as Munshi Gr.I. It is stated by the respondents in reply to the writ petition that the petitioner being appointed as work charged employee is required to be governed in accordance with the circular dated 4.3.1998, according to that the work charged employees are entitled for grant of selection grades w.e.f. 1.1.1998.

Heard counsel for the parties.

The circular dated 4.3.1998 is available on record as Anx.2. From perusal of it there is no doubt that it is having application upon the existing work charged employees. It is not at all concerned with the work charged employees who have already been taken on

regular cadre. The petitioner, in light of the fact that he was absorbed as Lower Division Clerk in regular cadre of Government of Rajasthan w.e.f. 8.10.2000 lost the status of work charged employee. For all purposes he became a regular employee of Government of Rajasthan after 8.10.2000. In view of it, the respondents erroneously dealt with case of the petitioner for grant of selection grades in accordance with circular referred above. The Labour Court also failed to appreciate this aspect of the matter. The petitioner being a regular government servant is certainly entitled for selection grades as prescribed under the notification dated 25.1.1992 and his services for the purpose are required to be computed from the date he was conferred with semi permanent status.

In view of whatever discussed above, this petition for writ is allowed. The award impugned dated 1.11.2004 is declared illegal and, therefore, the same is quashed. The respondents are directed to allow selection grades to the petitioner in accordance with notification dated 25.1.1992 by computing his services from the date semi permanent status was granted to him i.e. 31.8.1970. The petitioner is declared entitled for getting selection grades on completion of 9 and 18 years of service w.e.f. 25.1.1992 and selection grade on completion of 27 years of service w.e.f. 1.9.1997. The respondents are directed to grant selection grades

to the petitioner in terms above within a period of six months from today.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.